

DISTRICT OF COLUMBIA BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The Board of Education ("Board"), pursuant to the authority set forth in D.C. Official Code, 2001 Edition, §§38-101 & 38-102 et seq., hereby gives notice of proposed rulemaking action taken by the Board at its Special Meeting held on May 23, 2007 to amend Chapter 5 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: 1) Eliminate the requirement that the Superintendent submit any reprogramming of funds in excess of fifty thousand (\$50,000) to the Board of Education; 2) Establish authority for the Superintendent to approve reprogrammings for less than eight hundred sixty thousand dollars (\$860,000) for Local, Intra-district, Private Revenue and Special Purpose (Type-O) fund types; 3) Establish authority for the Superintendent to approve reprogrammings for less than six million dollars (\$6,000,000) for capital funds; and 4) Establish authority for the Superintendent to approve reprogrammings for less than one million dollars (\$1,000,000) for Federal Grant Funds.

The Board gives notice of its intent to take final rulemaking action on this proposed rulemaking in not less than thirty (30) days from publication of this notice in the D.C. Register.

Amend Section 501.12 as follows:

- (a) The Superintendent shall submit to the Board of Education, for review, any reprogramming or freeze of funds equal to or in excess of eight hundred sixty thousand dollars (\$860,000), cumulative for any individual reprogramming, within or across any single object classification or responsibility center for Local, Intra-District and Special Purpose (Type-O) fund types. The reprogramming for local school operations shall apply to each school as a separate fiscal entity.
- (b) The Superintendent shall submit to the Board of Education, for review, any reprogramming or freeze of funds equal to or in excess of six million dollars (\$6,000,000), cumulative for any individual reprogramming, within or across any Capital Project, Phase or Object Class identified in the Capital Improvement Plan for Capital funds.
- (c) The Superintendent shall submit to the Board of Education, for review, any reprogramming or freeze of funds equal to or in excess of one million dollars (\$1,000,000), cumulative for any individual reprogramming within or across any Federal grant funds.

- (d) The Superintendent shall immediately submit a request for approval if the reprogramming is required to ensure that there is no disruption of delivery of services or programs to students as follows:
 - 1) To the President of the Board of Education, who shall be responsible for updating the Board of Education at the next meeting; or
 - 2) In the absence of the President of the Board of Education the Vice President of the Board of Education shall be authorized to approve such requests and update the Board of Education at the next meeting.
- (e) The Superintendent shall submit quarterly to the Board of Education a list of all reprogramming of funds including any and all reprogrammings associated with local, private revenue, special purpose revenue, intra-district revenue, federal grant, and capital funds.
- (f) The Superintendent shall not be required to submit a request for reprogramming of funds to the Board of Education for review and approval as required in subsections (b) and (c) of this section if the Board of Education is in recess and not available to review and or approve any reprogramming of funds. At the next scheduled Stated Board meeting following the Board of Education's return from recess, the Superintendent shall submit to the Board of Education for review all reprogramming of funds required in subsections (b) and (c) of this section.

Written comments on the proposed rulemaking are invited from interested citizens. Such comments should be addressed to Mr. Kevin Clinton, Executive Secretary, D.C. Board of Education, 825 North Capitol Street, N.E., Washington, D.C. 20002. This rulemaking is available on the District of Columbia Public Schools website at www.k12.dc.us. Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

DISTRICT OF COLUMBIA BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Board of Education ("Board"), pursuant to the authority generally set forth in D.C. Official Code, 2001 Edition, Section 38-101, and specifically provided in D.C. Official Code, 2001 Edition, Section 38-102(c) hereby gives notice of proposed rulemaking action taken by the Board in its capacity as the State Education Agency, at its meeting held on May 30, 2007, to amend Chapter 23 of the Board Rules, Title 5 of the D.C. Municipal Regulations regarding Curriculum and Testing.

This amendment, if enacted, will effect the following changes: 1.) Enact Standards for World Languages, Music, Visual Arts and Health and Physical Education; 2.) Remove DCPS Assessments from Chapter 23; 3.) Update and rename the Curriculum and Testing Chapter such that it includes all standards and 4.) Reorganize Title 5 so that all the Standards are located in the new Chapter entitled Standards, Curriculum and Instruction.

The District of Columbia Board of Education ("Board") hereby gives notice of proposed rulemaking action. The Board also gives notice of its intent to take final rulemaking action to adopt the proposed rulemaking in not less than thirty (30) days from the publication of this notice in the D.C. Register.

These proposed rules deletes sections 3810, 3811, 3812 and 3814 from Chapter 38 in their entirety and relocates rules to a new Chapter 23, Title 5 "Standards Curriculum and Instruction" formerly "Curriculum and Testing".

~~CURRICULUM AND TESTING~~ STANDARDS, CURRICULUM AND INSTRUCTION

Amend Chapter 23 as follows:

2300 ~~COMPETENCY~~ STANDARDS-BASED CURRICULUM

- 2300.1 The Chief State School Officer shall be responsible for the development and implementation of content standards for the D.C. Public Schools. These content standards are designed to promote a proficient level of the knowledge, and skills in all content areas.
- 2300.2 In developing and implementing a standards-based curriculum, the Chief State School Officer shall be responsible for the establishment of instructional program priorities through a continuous process of assessment and evaluation of the educational needs of the students of the Public Schools.
- 2300.3 The standards-based curriculum shall include the following critical elements:
- (a) The use of rigorous and measurable content standards as the basis for organizing the instructional program;

- (b) The use of content standards as the basis for the establishment of instructional program criteria that foster advancement, promotion and graduation;
- (c) The use of these content standards as the basis for the development and implementation of valid and reliable performance assessments and evaluation instruments;
- (d) The allowance of multiple opportunities for students to demonstrate their progress in meeting specific instructional content standards, including constructive feedback and support;
- (e) The provision of a system for recording and reporting student progress based on the standards, instructional program criteria, and assessments and evaluations as set forth in this section; and
- (f) The provision of a system of differentiated instruction consistent with the styles, rates, needs, and stages of individual student learning and performance.

2300.4 The process of needs; assessment and evaluation shall be a continuing process and shall be included in the ongoing program of monitoring and evaluation of the standards-based program.

2300.5 The design for the standards based curriculum, and the instructional program implemented on the basis of that design, shall include the following components:

- (a) Instruction that is responsive to student progress and evaluation;
- (b) A reporting system based on progress in terms of standards proficiency;
- (c) Instructional materials, supplies, and equipment selection criteria;
- (d) Models for implementation on a system-wide, regional, and local school basis;
- (e) A plan for community involvement;
- (f) Systems for budget and management planning, control, audit, monitoring, and evaluation; and
- (g) A system of public accountability through the reporting of the content standards, plans, procedures, and priorities of the instructional program, and the reporting of the results of ongoing assessment and evaluation of the instructional program.

2301-2303 — [RESERVED]

Add section 2301

**2301 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN
ENGLISH LANGUAGE ARTS**

- 2301.1 The "District of Columbia English Language Arts Pre-K through Grade 12 Standards" is adopted for use by all schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
 - (b) Through the distribution of copies to each DC public school facility; and
 - (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.
- 2301.2 The Chief State Education Officer shall develop appropriate directives to execute his/ or her responsibilities under this section.

Add section 2302**2302 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN MATHEMATICS**

- 2302.1 The "District of Columbia Mathematics Pre-K through Grade 12 Standards" are adopted for use by all schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
 - (b) Through the distribution of copies to each DC Public School facility; and
 - (c) By posting on the District of Columbia Public Schools web page, www.k12.dc.us.
- 2302.2 The Chief State Education Officer shall develop appropriate directives to execute his/ her responsibilities under this section.

Add section 2303**2303 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN SCIENCE**

- 2303.1 The "District of Columbia Science Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic

Services;

- (b) Through the distribution of copies to each DC public school facility; and
- (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.

2303.2 The Chief State Education Officer shall develop appropriate directives to execute his responsibilities under this section.

Amend section 2304

2304 ~~COMPREHENSIVE SCHOOL HEALTH EDUCATION~~

2304.1 ~~D.C. Public Schools shall provide health instruction within a planned, sequential, pre K-12 comprehensive school health education curriculum that includes the physical, mental, emotional, and social dimensions of health and well-being.~~

2304.2 ~~Comprehensive school health education shall be defined as age appropriate instruction that improves the knowledge, skills, and behaviors of students so they choose a health enhancing lifestyle and avoid behaviors that may jeopardize their immediate or long term health status.~~

2304.3 ~~The Superintendent shall ensure that health instruction as defined in this section is taught through the use of appropriate monitoring and establishment of minimum proficiencies or learning outcomes in at least eleven (11) content areas including the following:~~

- ~~(a) HIV/AIDS and other sexually transmitted diseases;~~
- ~~(b) Human sexuality and family;~~
- ~~(c) Prevention and control of disease;~~
- ~~(d) Nutrition and dietary patterns that contribute to disease;~~
- ~~(e) Tobacco, alcohol, and other drug education;~~
- ~~(f) Physical education;~~
- ~~(g) Parenting;~~
- ~~(h) Coping with life situations;~~
- ~~(i) CPR, first aid, safety; injury and violence prevention;~~
- ~~(j) Consumer health; and~~
- ~~(k) Environmental health.~~

2304.4 ~~The Superintendent shall establish and maintain a system of teacher training that supports comprehensive school health education through appropriate staff development activities mandated for health and physical education classroom instructors.~~

2304 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN SOCIAL STUDIES

- 2304.1 The "District of Columbia Social Studies Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
 - (b) Through the distribution of copies to each DC public school facility; and
 - (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.
- 2304.2 The Chief State Education Officer shall develop appropriate directives to execute his/her responsibilities under this section.

Amend section 2305**2305 ~~HUMAN SEXUALITY AND REPRODUCTION~~**

- 2305.1 ~~The D.C. Public Schools, while recognizing that primary responsibility for educating children in this area rests with parents, shall offer, as part of the regular curriculum, instruction in human sexuality and reproduction which shall include, but not be limited to the following:~~
- ~~(a) Information on human anatomy, physical changes during adolescence, menstruation, intercourse, pregnancy, childbirth, lactation, venereal disease, contraception, abortion, homosexuality, reduction of infant mortality, improvement of pregnancy outcomes, and awareness and prevention of rape and other sex offenses; and~~
 - ~~(b) Discussion of the process of making personal decisions in matters involving parenting and sexuality.~~
- 2305.2 ~~Human sexuality and reproduction course content shall be taught sequentially in grade levels pre-K through twelve (12). The content of the courses shall be appropriate to the age group of the students receiving instruction.~~
- 2305.3 ~~All textbooks used for instruction in the area of human sexuality and reproduction must be included in the list of textbooks submitted annually for approval by the Board of Education.~~
- 2305.4 ~~All instructional materials, including textbooks, teachers' manuals, audio-visual aids, and other supplementary materials that are used for instruction in human sexuality and reproduction shall be available for inspection and review by parents or guardians of students receiving instruction in human sexuality and reproduction.~~

2305.5 ~~Prior to offering human sexuality and reproduction courses or programs, the principal shall notify in writing the parents or guardians of minor students. A minor student shall be excused from participating in human sexuality and reproduction instruction upon receipt by the principal of written notification from the student's parent or guardian.~~

2305 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN
WORLD LANGUAGES

2305.1 The "District of Columbia World Languages Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:

- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
- (b) Through the distribution of copies to each DC Public School facility; and
- (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.

2305.2 The Chief State Education Officer shall develop appropriate directives to execute his/her responsibilities under this section.

Amend section 2306

2306 ~~FIELD TRIPS AND STUDENT TRAVEL~~

2306.1 General Policy

- (a) ~~Field Trips and student travel shall serve as a means for enhancing learning and expanding the range of educational and cultural opportunities available to the DCPS students.~~
- (b) ~~Those planning and implementing field trips and student travel must ensure that these experiences:~~
 - (1) ~~Serve legitimate educational purposes;~~
 - (2) ~~Are conducted in a manner consistent with sound educational practices;~~
 - (3) ~~Ensure the safety, well being, and protection of the rights of participating students at all times;~~
 - (4) ~~Are evaluated periodically to determine their effectiveness in fulfilling the specified purposes.~~

2306.2 ~~Field trips designated to educate or modify behavior through intimidation of students are prohibited.~~

2306 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN MUSIC

- 2306.1 The "District of Columbia Music Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
 - (b) Through the distribution of copies to each DC Public School facility; and
 - (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.
- 2306.2 The Chief State Education Officer shall develop appropriate directives to execute his/her responsibilities under this section.

~~2307~~ ~~[RESERVED]~~

2307 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN VISUAL ARTS

- 2307.1 The "District of Columbia Visual Arts Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:
- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
 - (b) Through the distribution of copies to each DC Public School facility; and
 - (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.
- 2307.2 The Chief State Education Officer shall develop appropriate directives to execute his/her responsibilities under this section.

~~2308~~ ~~[RESERVED]~~

Add section 2308**2308 DISTRICT OF COLUMBIA STANDARDS FOR ACHIEVEMENT IN HEALTH AND PHYSICAL EDUCATION**

- 2308.1 The "District of Columbia Health and Physical Education Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:

- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
- (b) Through the distribution of copies to each DC Public School facility; and
- (c) By posting of the Standards on the District of Columbia Public Schools web page, www.k12.dc.us.

2308.2 The Chief State Education Officer shall develop appropriate directives to execute his/her responsibilities under this section.

2309 [RESERVED]

Delete section 2310

2310 CITY-WIDE TESTING

2310.1 ~~As an element in the ongoing assessment and evaluation of the instructional program and student achievement, the Superintendent shall establish and implement a city-wide testing program, which shall be approved annually by the Board of Education.~~

2310.2 ~~The city wide testing program shall include all tests which are administered on a city wide basis and published annually in a city wide testing schedule.~~

2310.3 ~~The following tests and testing programs shall not be included in the city wide testing program:~~

- ~~(a) Specific tests for evaluation of federally funded programs and services;~~
- ~~(b) Research and evaluation studies, except those that are administered on a city-wide basis;~~
- ~~(c) Evaluation tools used for specific goal areas in the competency-based curriculum; and~~
- ~~(d) Testing programs which are approved by the school system and sponsored and defined by external organizations such as the College Board and the National Assessment of Educational Progress.~~

2310.4 ~~The city wide testing program shall be used in conjunction with the competency-based curriculum by providing one hundred percent (100%) testing with either norm-referenced or criterion-referenced tests at those age or grade levels where diagnosis and evaluation will measure and aid student achievement most appropriately and usefully, as determined by the Superintendent and approved by the Board of Education as part of the annual city wide testing program.~~

2310.5 ~~All kindergarten students and all students enrolling in the Public Schools for the first time at the first (1st) grade level shall be assessed at the beginning of the school year.~~

2310.6 ~~The Superintendent of Schools may establish guidelines for the assessment of students enrolling in the Public Schools for the first time at a level beyond first grade.~~

- 2310.7 All testing programs, whether or not a part of the city wide testing program, shall include staff development and training requirements for all instructional staff members in the understanding and use of all tests being administered, including individualized testing, instructional program planning based on appropriate test results, and the explanation of tests and test results to parents and guardians.

Delete section 2311

~~2311 USE OF TEST RESULTS~~

- 2311.1 The results of tests administered by the D.C. Public Schools or under the auspices of the Board of Education shall not be considered determinative of the innate ability of individual students.
- 2311.2 Tests results may be used as a factor in the ongoing process of determining the best placement of students in the educational program and assessing students' individual instructional needs, based upon current competencies and skills. Test results may also be used as a factor in the evaluation of student and program performance.
- 2311.3 The provisions of this section shall not preclude the use of diagnostic tests or other tests connected with the assessment and evaluation of learning problems or learning deficiencies, or the evaluation and placement of students in programs for the handicapped.

Delete section 2312

~~2312 AVAILABILITY OF TEST RESULTS~~

- 2312.1 Individual student tests results shall be available to the parent or guardian of the student, and to the adult student. A parent, guardian, or adult student may request a conference with the appropriate teacher or counselor to discuss test results.
- 2312.2 The results of tests shall also be available to faculty and parent groups in summarized or averaged form. The principal or other school official may conduct meetings with faculty or parent groups, upon request, to inform faculty and parent groups of the interpretation and application of test results.
- 2312.3 Summary reports of city wide testing results shall be prepared by the Superintendent of Schools subsequent to each testing program. The Superintendent shall compile and provide the summary reports on an annual basis to the Board of Education as soon as possible after the end of the school year.
- 2312.4 The Superintendent's annual report shall include an analysis of the test results, including specific areas of achievement and deficiency, and shall indicate the steps that will be taken to correct any deficiencies.
- 2312.5 No test results shall be tabulated or reported that indicate individual or group scores by race or sex, except that aptitude tests results may be reported by sex in instances

where test data clearly indicates that males and females differ in their performance, and valid norms have been established indicating this difference.

2312.6 No tests results that identify any individual student shall be reported or made public.

2312.7 The Superintendent's annual report to the Board of Education shall be made public upon acceptance by the Board. Copies of the published report shall be distributed to local schools and representatives of the executive and legislative branches of the District of Columbia government.

2313-2319 [RESERVED]

Delete section 2320

2320 GENERAL EDUCATIONAL DEVELOPMENT (GED) TESTING

2320.1 The Superintendent is the District of Columbia official for the administration of the General Educational Development (GED) tests.

2320.2 The Superintendent shall approve the issuance of the District of Columbia High School Equivalency credentials pursuant to statutory requirements, the mandatory requirements of the Commission on Educational Credit of the American Council on Education, and the provisions of this section.

2320.3 Approval of the issuance of GED credentials by the Superintendent shall be based upon certification that the applicants are qualified by virtue of having fulfilled all requirements for issuance of the credential.

2320.4 DELETED [Final Rulemaking published 45 DCR 4545 (July 10, 1998).]

2320.5 The Superintendent shall also provide GED testing and certification services to persons incarcerated or confined in institutions located in the District of Columbia or operated by the District outside the boundaries of the District.

2320.6 The Superintendent shall also provide GED testing services in braille, large print, or on cassette tapes for visually impaired persons, and, shall ensure that all facilities for training and testing are physically accessible to people with disabilities.

2320.7 GED tests shall be given in both English and Spanish.

2320.8 The GED test shall not be administered to high school graduates, or persons matriculating in a Carnegie unit program. In addition, the GED Test shall not be administered for any purpose prohibited by the American Council on Education.

2320.9 Applicants for the GED testing and certification program shall be residents of the District of Columbia, as defined in chapter 20, at the time of application and examination. Upon request, an applicant shall present satisfactory evidence of residency, pursuant to the provisions of § 2002. The provisions of this subsection shall be subject to the exceptions set forth in § 2320.10.

- 2320.10 ~~Nonresidents of the District of Columbia who are otherwise qualified may apply and receive GED testing and certification in the District if they qualify under one (1) of the following criteria:~~
- ~~(a) The applicant is currently serving as a member of the Armed Forces of the United States on active duty assignment in the District of Columbia; or~~
 - ~~(b) The applicant is a trainee in a program sponsored by the government of the District of Columbia or federal government which is operated in the District of Columbia.~~
- 2320.11 ~~An applicant for GED testing and certification shall be at least eighteen (18) years old, and meet the following criteria:~~
- ~~(a) The applicant has been out of a formal classroom situation for a period of not less than six (6) months prior to submitting an application;~~
 - ~~(b) The applicant was a member of a high school class which has already graduated;~~
 - ~~(c) The applicant has dropped out of a regular school program without re-enrollment for a period of not less than six (6) months, during which time the applicant has been enrolled in a GED preparatory class; or~~
 - ~~(d) The applicant is certified by a training program sponsored by the government of the District of Columbia or the federal government.~~
- 2320.12 ~~Exceptions to the criteria stated in § 2320.11 shall be approved by the Superintendent of Schools or an authorized designee.~~
- 2320.13 ~~The content of the GED tests administered by the D.C. Public Schools shall be determined or supplied by the GED Testing Service of the American Council on Education.~~
- 2320.14 ~~The minimum standards for qualification for issuance of a District of Columbia GED Credential shall be as follows:~~
- ~~(a) An average standard score of forty-five (45) or above on all of the tests in the GED test battery; and~~
 - ~~(b) A minimum standard score of forty (40) or above on each of the tests in the GED test battery.~~
- 2320.15 ~~An applicant who has taken the GED test battery and failed to meet the minimum standards for qualification may apply to retake the tests after the expiration of the applicable waiting period, as follows:~~
- ~~(a) Three (3) months, if the applicant has been enrolled during that period in an organized educational program, acceptable to the Superintendent or an authorized designee; or~~
 - ~~(b) Six (6) months.~~

2320.16 ~~The re-testing of applicants for GED certification shall be at a location, in the manner, and according to the procedures determined by the Superintendent of Schools, or an authorized designee in accordance with the requirements of § 2320.2.~~

2320.17 ~~The following fees shall be charged for GED testing:~~

- ~~(a) Transcripts (\$ 2.00 each);~~
- ~~(b) Certification (\$ 5.00);~~
- ~~(c) Retest fee (\$ 4.00 per battery); and~~
- ~~(d) Testing fee (\$ 20.00).~~

Delete section 2399

~~2399~~ DEFINITIONS

~~2399.1 The definitions set forth in § 2099 are incorporated in this section by reference and shall apply to the terms and phrases when used in this chapter.~~

2313-2319 [RESERVED]

Written comments on the emergency and proposed rulemaking are invited from interested citizens. Such comments should be addressed to Mr. Kevin Clinton, Executive Secretary, D.C. Board of Education, 825 North Capitol Street, N.E., Washington, D.C. 20002. This rulemaking is available on the District of Columbia Public Schools website at www.k12.dc.us. Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

DISTRICT OF COLMBIA BOARD OF EDUCATION

NOTICE OF FINAL RULEMAKING

The Board of Education ("Board"), pursuant to the authority set forth in D.C. Official Code, 2001 Edition, §§38-101 & 38-102 et seq., hereby gives notice of final rulemaking action taken by the Board at its State Education Agency Meeting held on April 17, 2007 to amend Chapter 38 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: 1) establish the process for non-public schools and contractual providers to receive a certificate of approval to provide special education services for students with disabilities funded by the District government; 2) require non-public schools and contractual providers to retain a certificate of approval in order to be a qualified provider of such services; and, 3) subject non-public schools and contractual providers to inspection by the DCPS State Education Agency.

The final rulemaking will take effect upon its publication in the *D.C. Register*. The proposed rulemaking on this subject was published in the *D.C. Register* on March 16, 2007 at 54 DCR 2362.

ADD SECTION 3813

**3813 CERTIFICATES OF APPROVAL FOR NON-PUBLIC SCHOOLS
AND CONTRACTUAL PROVIDERS SERVING STUDENTS WITH
DISABILITIES FUNDED BY THE DISTRICT GOVERNMENT**

3813.1 The Board of Education as the State Education Agency (SEA) shall issue certificates of approval to nonpublic schools or providers serving students with disabilities. The Chief State School Officer shall promulgate the appropriate Directive to implement the requirements of this Rule. The Directive shall be issued not later than thirty (30) days from the effective date of this Rule and shall include at minimum, specific directions to prospective applicants regarding the application process and the actions that will be taken by the SEA to determine approval for receiving and maintaining a Certificate of Approval.

3813.2 Certificate of Approval of nonpublic special education schools, programs provided by contractual providers

- (a) The Chief State School Officer shall administer the Certificate of Approval process for nonpublic schools, or contractual providers that receive funding from the District of Columbia government to provide services to District of Columbia students with disabilities.

The SEA shall issue a Certificate of Approval to a nonpublic special education school or contractual provider after determining that the school or contractual provider complies with the regulations set forth in Chapters 22, 25, 30, and 38 of Title 5 of the District of Columbia Municipal Regulations, this Section and any applicable fire safety, building code, health and sanitation requirements;

- (b) A Certificate of Approval shall be for a period not to exceed three (3) years.
- (c) The SEA shall develop and maintain a list of approved nonpublic special education schools and contractual providers who provide programs, and shall display the list along with appropriate information about each nonpublic special education school, or contractual provider on the Internet site of the District of Columbia Public Schools.

3813.3

- (a) The initial application and the Certificate of Approval shall include the following information:
 - (1) Name of the school or program;
 - (2) Location of the school or program;
 - (3) The name and the address of the individual or entity responsible for governing and operating the school or program;
 - (4) The classification of the educational school or program to include, but not limited to, one or more of the following:
 - (A) Nursery School;
 - (B) Kindergarten;
 - (C) Elementary school with sequential grades specified;
 - (D) Secondary school with sequential grades specified; and
 - (E) Special education and related services; and
 - (5) Any additional information the SEA requires to ensure that the application is complete.
- (b) A school or program shall operate in a manner that is consistent with the specifications recorded on the Certificate of Approval issued to the individual or entity with legal responsibility for governing and operating the school or program.

- (c) The SEA may issue a provisional Certificate of Approval to schools or contractual providers that meet minimum requirements established by this Rule.
- (d) When placing District of Columbia students with disabilities in a nonpublic special education school or program outside the District, the SEA may adopt a certificate of approval or license established by that jurisdiction's state education agency if the standards of that state are substantially similar to the District of Columbia's Certificate of Approval standards.
- (e) In issuing Certificates of Approval to residential child care facilities, the SEA shall coordinate with the Department of Mental Health, the Department of Human Services, the Child and Family Services Agency, the Department of Youth Rehabilitation Services, and the Medical Assistance Administration of the Department of Health, or any other appropriate public agency.

3813.4 Certificate of Approval – Compliance

- (a) All nonpublic special education schools or contractual providers with programs serving students with disabilities with funding provided by the District of Columbia government shall fully comply with all requirements of this Section in order to maintain their Certificates of Approval.
- (b) To receive funding from the District of Columbia government in the 2007-2008 academic school year, all nonpublic special education schools or contractual providers with programs shall submit applications to the SEA by the date(s) established in the Chief State Officer's Directive and/or the application documents. The Chief State School Officer shall have discretion to accept late applications for good cause shown and may allow a school or contractual provider additional time to cure any deficiencies in the application.
- (c) For the 2008-2009 academic school year and each subsequent school year, a nonpublic special education school or contractual provider seeking a Certificate of Approval shall submit an initial application to the SEA no later than 45 days prior to the start of the school year. The Chief State School Officer shall have discretion to accept late applications for good cause shown and may allow a school or contractual provider additional time to cure any deficiencies in the application.

- (d) Not later than 45 days prior to the start of each school year, a school or contractual provider granted a Certificate of Approval by the SEA shall certify its annual compliance with this Rule by filing a certificate of compliance with the SEA. The Chief State School Officer shall provide the certificate of compliance to the school or contractual provider for completion.

3813.5 Certificate of Approval – Inspection

- (a) The SEA shall schedule periodic monitoring visits to each special education school or program at least once every 3 years. The employees of the SEA may make unannounced visits to a school or program during the 3-year period.
- (b) A nonpublic special education school or program approved by the SEA shall be subject to inspection by the SEA or its designee for the following reasons:
 - (1) To verify compliance with this Section and the Chief State School Officer's implementing Directive for the purpose of reviewing an application for the Certificate of Approval;
 - (2) To verify compliance with this Section and the Chief State School Officer's implementing Directive when a nonpublic special education school or program receives District of Columbia government funds for its educational program;
 - (3) To investigate complaints relating to this act or violations of the IDEA; and
 - (4) To determine compliance with DCPS regulation or to monitor program quality.

3813.6 Certificate of Approval – Renewal

- (a) Nonpublic schools and contractual providers may have their Certificates of Approval renewed for a period not to exceed 3 years.
- (b) If a Certificate of Approval has not been renewed by the SEA on or before the renewal anniversary date, the certificate of Approval shall expire and the Chief State School Officer shall take immediate steps to determine an appropriate placement, in accordance with the IDEA for students enrolled in schools or programs outside of DCPS. The DCPS Superintendent shall

determine appropriate placement for any DCPS-funded students who attended the nonpublic special education school or program with the expired Certificate of Approval.

3813.7 Certificate of Approval – Denial, revocation, refusal to renew; or suspension

- (a) The SEA may deny, revoke, refuse to renew, or suspend a Certificate of Approval for any one or combination of the following causes:
 - (1) Violating any provision of this Rule or applicable federal laws or regulations, except that noncompliance with the Mayor's or his designee's rate-setting process for the payment of tuition and related services to nonpublic special education schools and programs Section 112 shall not be grounds for denial, revocation, refusal to renew, or suspension;
 - (2) Providing false, misleading, or incomplete information, or failing to provide information requested by the SEA or DCPS;
 - (3) Violating any commitment made in application for a Certificate of Approval;
 - (4) Failing to provide or maintain the premises or equipment of the special education school or program in a safe and sanitary condition as required by applicable law or regulation;
 - (5) Failing to maintain adequate programs or to retain adequate, qualified instructional staff; and/or
 - (6) Failing within a reasonable time to provide information requested by DCPS or the SEA as a result of a formal or informal complaint or as a supplement to an initial application for a Certificate of Approval.
- (b) If the SEA determines a nonpublic special education school or program is in violation of subsection (a) of this section, the SEA shall provide the nonpublic special education school or contractual provider for the program written notice of the violations before denying, revoking, refusing to renew, or suspending the Certificate of Approval.

- (c) A nonpublic special education school or contractual provider found to be in violation of subsection (a) of this section, may request a hearing before an independent panel of the SEA. This request shall be in writing and submitted to the SEA within 30 days of receipt of the written notice required under subsection (b) of this section. The panel that reviews the SEA decision shall not contain any individual who participated in the decision to issue the original notice.
- (d) The SEA shall hold a hearing within 30 days of receiving a written request, and shall issue its decision no later than 10 days after the hearing. The decision of the SEA panel shall be final and is not subject to appeal.
- (e) Pursuant to the IDEA, while review is pending, the nonpublic special education school or program shall continue to provide special education and related services to enrolled students.

This rulemaking will be available on the District of Columbia Public Schools website at http://www.k12.dc.us/dcps/boe/boe_frame.html. Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority of sections 3(b), 5(3)(D)(i) and 5(3)(D)(iii) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(3)(D)(i), and 50-921.04(3)(D)(iii)), and Mayor's Order 2007-5 (January 2, 2007), hereby gives notice of the intent to add a new Chapter 16 to Title 24 of the Public Space and Safety Regulations. Proposed Chapter 16, entitled "Valet Parking," establishes the general provisions governing valet parking services that utilize the District of Columbia's public space.

Proposed regulations were published in a Notice of Proposed Rulemaking on September 8, 2006, in the *D.C. Register* at 53 DCR 7439. In response to the comments received, the regulations have been revised to: (1) explain that a person providing valet parking services for a one-time, non-recurring event at a private residence is exempt from having to obtain a valet parking permit; (2) note that a person that has been issued a Certificate of Occupancy must obtain a valet parking permit in order to provide valet parking services; (3) rename a "Valet Parking Zone" to "Valet Staging Zone"; (4) require an applicant for a valet parking permit to verify that the applicant has access to off-street parking spaces in an amount equal to at least 10% (vs. 30%) of the full occupancy rate of the business served; (5) require applicants to post a notice stating intent to obtain a valet parking permit; (6) allow the use of one Valet Staging Zone for several businesses in the same vicinity; (7) state that a material change of a valet parking permit includes a proposed change in the valet parking operator; (8) and clarify that the public space rental fee is \$15/sq-ft. (vs. \$15/linear-ft.).

Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of the notice in the *D.C. Register*.

TITLE 24 DCMR, **PUBLIC SPACE AND SAFETY**, is amended by adding a new chapter to read as follows:

Chapter 16 VALET PARKING**1600 GENERAL PROVISIONS**

1600.1 No person shall conduct, operate, maintain, or provide Valet Parking services utilizing public space within the District of Columbia without a permit from the Department.

- 1600.2 The Department may issue a Valet Parking permit for one (1) year that allows a Permittee to rent public space for a Valet Staging Zone that shall be used only for the immediate drop-off and pick-up of motor vehicles during Valet Parking hours. No other use for a Valet Staging Zone shall be permitted during Valet Parking hours.
- 1600.3 A Permittee shall use a licensed Valet Parking Operator to provide Valet Parking services.
- 1600.4 If the Public Space Committee approves a Valet Parking permit application, then the Department may issue a permit for the rental of public space for Valet Parking services upon payment of the public space rental fees set forth in § 1605.2.
- 1600.5 Each Permittee shall save harmless and indemnify the District, and its officers, agents, and employees from all suits, claims, charges, and judgments to which the District, its officers, agents, and employees may be subject on account of the issuance of a Valet Parking permit, the operation of Valet Parking services, or injury to any person or damage to any property, including the property of the District of Columbia.
- 1600.6 A person providing Valet Parking for a non-recurring, one-time event at a private residence shall be exempt from the provisions of this chapter.
- 1600.7 A person that has been issued a Certificate of Occupancy shall obtain a Valet Parking permit to provide Valet Parking services.
- 1601 APPLICATION PROCEDURES**
- 1601.1 An Applicant shall submit an application to the Department to rent public space for a Valet Staging Zone in the District of Columbia to offer Valet Parking services. The application form shall be furnished by the Department.
- 1601.2 Each completed Valet Parking permit application shall be accompanied by a Valet Parking Plan that shall include, but is not limited to, the following information:
- (a) The name, address, and telephone number of the Applicant;
 - (b) A copy of the Applicant's business license issued by the Department of Consumer and Regulatory Affairs (DCRA), if the Applicant is required to have one;

- (c) A copy of the Applicant's Certificate of Occupancy issued by DCRA for the facility used by the Applicant for the business for which the Valet Parking service will be provided, if the Applicant is required to have one;
- (d) The name, address, and telephone number of the Valet Parking Operator;
- (e) A copy of the Valet Parking Operator's business license issued by the District;
- (f) A copy of the Valet Parking Operator's liability insurance certificate.
- (g) Three (3) eight inch by ten inch (8 in. x 10 in.) glossy photographs of the public space, including the curb space and road way, of the proposed Valet Staging Zone. The photographs shall show the following views of the proposed Valet Staging Zone:
 - (1) Frontal view;
 - (2) Sharp angle right side view; and
 - (3) Sharp angle left side view.
- (h) The proposed pattern of discharge and pickup of motor vehicles, including the estimated number of motor vehicles being Valet Parked during each hour of operation, the latest time a person may obtain their motor vehicle, the location where the motor vehicle is parked, and the estimated number of agents, authorized designees, employees, or representatives providing Valet Parking during each hour of operation;
- (i) A traffic flow plan, including a map, that provides details regarding the route from the Valet Parking drop-off area to the off-street parking facility location(s) where the motor vehicles will be parked, and the route from the location(s) where the motor vehicles will be parked back to the Valet Staging Zone;
- (j) The name, address, and telephone number of the off-street parking facility where motor vehicles will be parked during Valet Parking hours;
- (k) Verification of access to off-street parking spaces in the off-street parking facility described in subsection (j) in an amount equal to at least ten percent (10%) of the full occupancy rate of the business

served (as specified on the Certificate of Occupancy issued by DCRA) or the anticipated number of Valet Parking patrons, whichever is greater;

- (l) Verification that affected Advisory Neighborhood Commissions have been provided thirty (30) business days advance notice of the Valet Parking application and Valet Parking Plan for review and comment; and
- (m) Verification that adjacent property owners, property owners to the immediate left, right, under, and overtop, have been provided thirty (30) days advance notice of the Valet Parking application and Valet Parking Plan.

1601.3 The Applicant shall post a notice of its intent to obtain a Valet Parking permit in a conspicuous site near the proposed Valet Staging Zone for thirty (30) days. The Valet Parking application and Valet Parking Plan shall be made available for public viewing during the thirty (30) day notice period.

1602 APPLICATION REVIEW

1602.1 The Public Space Committee is responsible for reviewing Valet Parking applications.

1602.2 The Public Space Committee may approve a Valet Parking application if it finds that:

- (a) The Valet Parking operation will not disrupt vehicular or pedestrian traffic;
- (b) The Valet Parking operation will not pose a threat to public safety or welfare;
- (c) The Valet Parking Plan provides for sufficient agents, authorized designees, employees, or representatives of the Valet Parking Operator to park the projected number of motor vehicles during all hours of Valet Parking operations; and
- (d) The Valet Parking Plan provides for sufficient off-street parking spaces for the projected number of motor vehicles expected to use Valet Parking services during all hours of Valet Parking operations.

1602.3 In deciding whether to approve a Valet Parking application, the Public Space Committee may consider the following criteria:

- (a) The number of off-street parking spaces that will be used during Valet Parking operations;
- (b) The public space required for the Valet Staging Zone;
- (c) The traffic conditions at the time of Valet Parking operations;
- (d) The time required to travel safely from the location of the Valet Parking service to the location where the motor vehicles will be parked during Valet Parking hours, on foot and with a motor vehicle;
- (e) The estimated number of motor vehicles that will be Valet Parked by the proposed Valet Parking Operator during each hour of Valet Parking operations;
- (f) The average length of time a motor vehicle will be parked during Valet Parking hours;
- (g) The distance from the location of the Valet Parking service to the location where the motor vehicles will be parked during Valet Parking hours; and
- (h) Public safety or welfare.

1602.4 Upon approval of the Valet Parking application by the Public Space Committee, a Valet Parking permit shall be issued. If the Valet Parking application is denied, the Applicant shall be informed of the reasons for the denial in writing.

1603 VALET STAGING ZONES

1603.1 The Department shall decide where the Valet Staging Zone will be located. Permittees may be required to share a Valet Staging Zone.

1603.2 The location of the Valet Staging Zone as well as the size, hours of operation, and dimensions associated with the Valet Staging Zone shall be included in the Valet Parking permit.

1603.3 The Department shall post signs indicating the location and hours of operation of each Valet Staging Zone for which a permit has been granted and no parking shall be allowed in the Valet Staging Zone during the posted hours of operation.

- 1603.4 Valet Parking services shall be offered only in the location and during the hours specified by the Department.
- 1603.5 The Valet Staging Zone shall be used only for the immediate drop-off and pick-up of motor vehicles during the hours specified in the permit by the Department and no parking shall be allowed in the Valet Staging Zone during the posted hours of operation.
- 1603.6 A Valet Parking Operator shall immediately remove motor vehicles from the Valet Staging Zone to the off-street facility.
- 1603.7 No motor vehicle shall occupy space in a Valet Staging Zone during the posted hours unless that motor vehicle is making use of the Valet Parking service; except that the operator of a motor vehicle may stop momentarily in a Valet Staging Zone for the purpose of and while actually picking up or discharging passengers, as long as such stopping does not interfere with any motor vehicle about to enter the Valet Staging Zone designated for the use of such motor vehicle.
- 1603.8 The drop-off and pick-up of motor vehicles for Valet Parking services shall be conducted only in Valet Staging Zones.

1604 VALET PARKING OPERATIONS

- 1604.1 Any person engaged in parking or driving motor vehicles for a Valet Parking Operator shall possess a valid driver's license that is recognized in the District of Columbia.
- 1604.2 While providing Valet Parking services, each individual shall wear a uniform that identifies the employee as working for the Valet Parking Operator.
- 1604.3 A Valet Parking Operator shall display a sign identifying the business for which the Valet Parking Operator is working and indicate any fees for Valet Parking services. The sign shall be readily visible at the point where motor vehicles are accepted for Valet Parking. All signage shall comply with the provisions set forth in chapter 1 of this title.
- 1604.4 Valet Parking services shall be offered only during the hours specified in the Valet Parking permit.
- 1604.5 Valet Parking Operators shall comply with all applicable traffic laws and parking regulations when providing Valet Parking services.

1605 DUTIES

- 1605.1 A Permittee that provides Valet Parking services in the District of Columbia shall adhere to the provisions of this chapter.
- 1605.2 The public space rental fee for a Valet Parking permit shall be fifteen dollars per square foot (\$15/sq-ft.) of public space that comprises a Valet Staging Zone. The Permittee also shall be responsible for any direct costs and loss of revenue incurred by the Department in the creation of the Valet Staging Zone.
- 1605.3 A Permittee who is issued a Valet Parking permit for Valet Parking services shall not park motor vehicles anywhere in the public space, including, but not limited to, on-street parking, on alleys, and areas designated as Residential Permit Parking zones.
- 1605.4 The Permittee shall inform the Department in writing of any of the following changes to the approved Valet Parking Plan within five (5) business days of the change:
- (a) A change in the name, address, or telephone number of the Valet Parking Operator;
 - (b) A change in the name, address, or telephone number of the Permittee;
 - (c) A change in the name, address, and telephone number the off-street parking facility;
 - (d) A change in the Permittee's business hours;
 - (e) An increase in the number of patrons using the Valet Parking services;
 - (f) A change in the traffic flow plan; or
 - (g) A change in the pattern of discharge and pickup of motor vehicles.
- 1605.5 The Permittee shall inform the Department in writing of the following material changes to the approved Valet Parking Plan at least ten (10) business days before the material change is proposed to take effect so that the Department may determine whether to approve the material change as pertains to the Valet Parking permit:

- (a) A proposed change in the location of the Valet Staging Zone;
- (b) A proposed change in the location of the Permittee's business;
- (c) A proposed change to the Applicant's business license as issued by DCRA; or
- (d) A proposed change to the Valet Parking Operator's liability insurance certificate.
- (e) A proposed change in the Valet Parking Operator.

1606 SUSPENSION AND REVOCATION OF PERMIT

1606.1 The Department may suspend or revoke a Valet Parking permit for the following reasons:

- (a) The Valet Parking operation adversely impacts vehicular or pedestrian traffic;
- (b) The Permittee violates a provision of this chapter or the Valet Parking permit;
- (c) The Valet Parking Operator violates a provision of this chapter or the Valet Parking permit;
- (d) The Permittee fails to submit timely payment of the applicable public space rental fees;
- (e) The Permittee fails to inform the Department of the changes discussed in §§ 1605.4 and 1605.5; or
- (f) Public safety or welfare.

1699 DEFINITIONS

1699.1 When used in this chapter, the following terms shall have the meaning ascribed below:

Applicant – a person who applies for a permit to offer valet parking services. Two or more persons applying jointly for a valet parking permit may be treated as a single applicant; provided, however, that each person shall submit the information requested in §§ 1601.2(a)-(c).

Department – the District Department of Transportation.

Motor Vehicle – any vehicle propelled by internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" shall not include road rollers, farm tractors, vehicles propelled only upon stationary rails or tracks, electric personal assistive mobility devices, and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding ten miles per hour (10 miles/hr).

Permittee – a person who is issued a valet parking permit by the Department.

Person – a natural person or a corporation, company, firm, agency, association, partnership, organization, individually-owned business, or commercial entity.

Valet Parking – the act of removing a motor vehicle from the public right-of-way for the benefit of the motor vehicle's operator, regardless of whether a fee is charged for the act. Attendant parking at an off-street parking facility shall not constitute valet parking.

Valet Parking Operator – a person, who through its agents, authorized designees, employees, or representatives, provides the service of valet parking.

Valet Parking Plan – a plan submitted by an applicant that details the location of the valet parking service, the location where motor vehicles will be parked during valet parking hours, and the hours of operation for valet parking.

Valet Staging Zone – the public space adjacent to a curb reserved for valet parking.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Ann Simpson-Mason, Associate Director, District Department of Transportation, 2000 14th Street, N.W., 5th Floor, Washington, D.C. 20009. Comments may also be sent electronically to publicspace.committee@dc.gov. Copies of this proposal are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's web site at ddot.dc.gov.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 07-04

(Text Amendment – 11 DCMR)

**(Text Amendment – temporary detention and correctional institutions in the C-M
Districts)**

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), hereby gives notice of its intent to repeal § 801.7(k) of the Zoning Regulations. This provision was added by the Zoning Commission Order 71-33 to permit “temporary detention or correctional institution on leased property for a period not to exceed three (3) years” as an allowed use in C-M (commercial-light manufacturing) Zone Districts. The provision was adopted over 35 years ago in response to a short-term crisis the District faced in housing its prison population. The provision was never lawfully used and the crisis has long passed. The regulation is therefore not necessary.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 11 (DCMR) is amended by deleting § 801.7(k).

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.